

**CITY OF COPPERAS COVE  
CITY COUNCIL REGULAR MEETING MINUTES  
JUNE 20, 2006 – 7:00 P.M.**

**A. CALL TO ORDER**

Mayor, Roger P. O'Dwyer called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 7:00 p.m.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

Council Member Harris gave the Invocation and led the Pledge of Allegiance.

**C. ROLL CALL**

**ALSO PRESENT**

Bob Reeves  
Ray Don Clayton  
John Gallen  
James Stockman  
R. Ray Gatewood  
Fred Harris  
Frank D. Somera, Jr.

Steven J. Alexander, City Manager  
James R. Thompson, City Attorney  
Jane Lees, City Secretary

**D. ANNOUNCEMENTS**

**E. PUBLIC RECOGNITION**

1. Recognition of MIMES class graduates. ***Dennis Haas, Fire Chief***

Dennis Haas, Fire Chief gave recognition to the first 14 junior high students for being recent graduates of the MIMES fire camp.

- F. CITIZENS' FORUM** citizens are allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Chuck Downard, 208 Ridge Street. Mr. Downard, speaking for the impact fee committee and other citizens groups active in the recent elections, said that because the city has a new Mayor, two new Council Members and a new City Secretary coming on board, as well as a new Economic Development Corporation director, they have agreed to allow staff time to work on the upcoming budget and hold back on public records requests, TV interviews and newspaper articles. Mr. Downard said that they did have one request for the Mayor. That request is to appoint a committee of council members to review the procedures regarding the process of the recent impact fee petition. He left copies of recent emails on the subject of impact fees between him and city staff with the City Secretary, saying that the petition was signed by 376 citizens, of which approximately 200 are senior citizens. He said that it would not bother them to gather signatures again for another petition. He said that some developers have made statements that they would leave town if impact fees were approved. He

fielded a question to the developers saying that if a possible fee of \$1,587 for a three bedroom 2,000 square foot house on a 25 to 30 year loan runs them off, then he can surely find 200 senior citizens who will provide transportation out of the city for them. Mr. Downard said he disagreed with the recent petition for recall. In fact, he felt that the \$25 increase for the Council should be put back on the ballot. In closing, Mr. Downard said that the city should seriously consider letting new owners assist in paying for the growth here in Copperas Cove.

Diane Steele—905 North 4<sup>th</sup> Street. Ms. Steele said that the issue of impact fees is not going to go away. She referred to the 1995 Comprehensive Plan for the city which strongly recommended the fees. She said that if the city decides to fund another \$17 million proposed for capital improvements and more development, another petition will be submitted immediately after the city publishes its intent in the newspaper. She is a firm believer that the people have a say, especially on important issues like this. The voters may reject funding any new development because they are unable to afford it. If that happens, Copperas Cove will not grow. She feels that there are some builders and home buyers who are willing to pay these one time fees. If they could pay one time, and not any more for infrastructure necessitated by new residential development, they would applaud the Council. Ms. Steele asked that the Council put this on a future agenda to be voted on.

#### **G. CONSENT ITEMS**

1. Consideration and action on approval of minutes from June 6, 2006, Regular City Council Meeting, and June 15, 2006 Special City Council Meeting.  
**Jane Lees, City Secretary**

Council Member Gallen made a motion to approve consent item G-1. Council Member Gatewood seconded the motion, and with a unanimous vote, motion carried.

#### **H. PUBLIC HEARINGS/ACTION**

1a. Public Hearing on Ordinance No. 2006-16 granting a Special Use Permit for a restaurant club at 609 E. Hwy 190, being part of Outlot 10, Copperas Cove, TX, providing an effective date and containing a savings clause. **John C. Adel, AICP/City Planner**

John C. Adel, AICP/City Planner gave an overview of agenda item H-1a.

Mayor O'Dwyer opened the Public Hearing.

Speaking for: Diane Steele—905 North 4<sup>th</sup> Street

Speaking against: None

Mayor O'Dwyer closed the Public Hearing.

1b. Consideration and action on Ordinance No. 2006-16 granting a Special Use Permit for a restaurant club at 609 E. Hwy 190, being part of Outlot 10, Copperas Cove, TX, providing an effective date and containing a savings clause. **John C. Adel, AICP/City Planner**

Council Member Stockman made a motion to approve agenda item H-1b. Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption reads as follows:

#### **ORDINANCE NO. 2006-16**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS GRANTING A SPECIAL USE PERMIT FOR A RESTAURANT CLUB AT 609 E. HWY 190, BEING PART OF OUTLOT 10, COPPERAS COVE, TX, PROVIDING AN EFFECTIVE DATE AND CONTAINING A SAVINGS CLAUSE.**

#### **I. ACTION ITEMS**

1. Consideration and action on appointment or reappointment of members to the Planning and Zoning Commission to fill vacancies. **John C. Adel, AICP/City Planner**

John C. Adel, AICP/City Planner gave an overview of agenda item I-1.

Council Member Harris made a motion to appoint Sean Caplinger to the Planning and Zoning Commission Place One. Council Member Gatewood seconded the motion, and with a unanimous vote, motion carried.

Council Member Harris made a motion to appoint Bradi Diaz to the Planning and Zoning Commission Place Two. Council Member Gallen seconded the motion, and with a unanimous vote, motion carried.

2. Consideration and action on appointment of members and alternates to fill vacancies on the Board of Adjustment. **John C. Adel, AICP/City Planner**

John C. Adel, AICP/City Planner gave an overview of agenda item I-2.

Council Member Gallen made a motion to reappoint Robin Hopkins to Place Two and appoint Bud Owsley to Place Four. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

Council Member Gatewood made a motion to appoint Robert Clark to Alternate Position One. Council Member Gallen seconded the motion. Council Member Gallen asked if Mr. Adel would check with Mr. Kanzenbach and Mr. Gibson to see if one of them would be interested in filling Alternate Position Two on the Board of Adjustment. Motion carried with a unanimous vote.

3. Consideration and action on authorizing the City Manager to execute a Site Lease Agreement between the City of Copperas Cove and Cingular Wireless. **Andrea Gardner, Assistant City Manager/Director of Finance**

Andrea Gardner, Assistant City Manager/Director of Finance gave an overview of agenda item I-3.

Council Member Gatewood made a motion to approve agenda item I-3. Council Member Gallen seconded the motion, and with a unanimous vote, motion carried.

4. Consideration and action on authorizing the City Manager to execute a Letter Agreement between the City of Copperas Cove and TXU Electric Delivery.  
**Andrea Gardner, Assistant City Manager/Director of Finance**

Andrea Gardner, Assistant City Manager/Director of Finance gave an overview of agenda item I-4.

Council Member Gallen made a motion to approve agenda item I-4. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

5. Consideration and action on Resolution No. 2006-28 authorizing and supporting the submission of a grant application under the Staffing for Adequate Fire and Emergency Response (SAFER) Act through the Department of Homeland Security, Office of Domestic Preparedness, for 6 firefighters; authorizing the Grants Administrator to act on behalf of the City in all matters pertaining to the grant. **Andrea Gardner, Assistant City Manager/Director of Finance**

Andrea Gardner, Assistant City Manager/Director of Finance gave an overview of agenda item I-5.

Council Member Stockman made a motion to approve agenda item I-5. Council Member Gatewood seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption reads as follows:

#### **RESOLUTION NO. 2006-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING AND SUPPORTING THE SUBMISSION OF A GRANT APPLICATION UNFER THE STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) ACT THROUGH THE DEPARTMENT OF HOMELAND SECURITY, OFFICE OF DOMESTIC PREPAREDNESS, FOR 6 FIREFIGHTERS; AUTHORIZING THE GRANTS ADMINISTRATOR TO ACT ON BEHALF OF THE CITY IN ALL MATTERS PERTAINING TO THE GRANT.**

6. Consideration and action on rescheduling the date of the first regular City Council meeting in July from July 6, 2006 to July 11, 2006. **Jane Lees, City Secretary**

Jane Lees, City Secretary gave an overview of agenda item I-6.

Council Member Gatewood indicated he would not be able to attend the July 11 meeting and will be requesting an excused absence.

Council Member Somera made a motion to approve agenda item I-6. Council Member Harris seconded the motion, and with a unanimous vote, motion carried.

7. Consideration and action on Ordinance No. 2006-17 amending Chapter 14 drilling of oil and gas wells in the city. **James R. Thompson, City Attorney**

Council Member Clayton stated that he completed an affidavit to recuse himself from items I-7, I-8 and M-1 and removed himself from the Council Chambers.

James R. Thompson, City Attorney gave an overview of agenda item I-7.

Council Member Harris made a motion to approve agenda item I-7 as discussed and amended at the workshop prior to the meeting. Council Member Stockman seconded the motion.

Council Member Reeves made a motion to amend Council Member Harris's motion by accepting Ordinance 2006-14 to amend Chapter 14 with the following additions:

1) To the indemnification and negligence provision he recommended deleting the following two paragraphs: "The applicant agrees to indemnify and hold harmless the City of Copperas Cove, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damage suffered as a result of claims, demands, costs, or judgments against the City, its departments, its officers, agents, servants or employees created by, or rising out of the acts or omissions of the City of Copperas Cove occurring on the drill site or operation site in the course and scope of inspecting and permitting the wells including, but not limited to, claims or damages arising in whole or in part from the negligence of the City of Copperas Cove of occurring on the drill site or operation site in the course and scope of inspecting and permitting oil and gas wells.

IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE APPLICANT TO INDEMNIFY AND PROTECT THE CITY OF COPPERAS COVE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF NEGLIGENCE OF THE CITY OF COPPERAS COVE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE;" and

2) Change Sec. 14-11 (e) to read, "All reserve fluids, completion/workover fluids, drilling fluid disposal, fresh makeup water, gas plant evaporation/retention fluids, mud circulation fluids, or water condensate containment, shall be stored in lined ground pits or above ground tanks, if required by the City engineer."

Council Member Gallen seconded the motion. After further discussion, Council Member Reeves added to his motion the following:

- 3) Delete the \$5M umbrella policy and require policies of not less than \$1M for bodily injury or death of one person, not less than \$2M for any one accident, and \$500,000 for damage to property; and
- 4) Include environmental pollution liability applicable to bodily injury, and property damage, in amounts of \$1M per loss, with an annual aggregate of at least \$2M.

Council Member Gallen agreed to second the additions to the motion.

Council Member Somera called for a vote on the question. The motion carried with a unanimous vote.

A vote on the original motion made by Council Member Harris and seconded by Council Member Stockman carried unanimously.

The Ordinance caption reads as follows:

**ORDINANCE NO. 2006-17**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING CHAPTER 14 DRILLING OF OIL AND GAS WELLS IN THE CITY.**

8. Consideration and action on Ordinance No. 2006-18 ending a moratorium on drilling oil and gas wells in the city. **James R. Thompson, City Attorney**

James R. Thompson, City Attorney gave an overview of agenda item I-8.

Council Member Gatewood made a motion to approve agenda item I-8. Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption reads as follows:

**ORDINANCE NO. 2006-18**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ENDING A MORATORIUM ON DRILLING OIL AND GAS WELLS IN THE CITY.**

9 Consideration and action on authorizing the City Manager to enter into an agreement to purchase right-of-way. **Steven J. Alexander, City Manager**

Steven J. Alexander, City Manager requested this item be moved to the end of the agenda because it will be discussed in Executive Session.

10. Consideration and action on Resolution No. 2006-26 to suspend the effective date of Atmos Rate Case for ninety days. **Steven J. Alexander, City Manager**

Council Member Clayton returned to Council Chambers.

Steven J. Alexander, City Manager gave an overview of agenda item I-10.

Council Member Somera made a motion to approve agenda item I-10. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption reads as follows:

**RESOLUTION NO. 2006-26**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, SUSPENDING THE EFFECTIVE DATE OF ATMOS RATE CASE FOR NINETY DAYS.**

**J. STAFF REPORTS**

1. Report on tourism funds from Hotel-Motel Tax: 1<sup>st</sup> Quarter 2006  
***Marty Smith, President, Copperas Cove Chamber of Commerce***

**K. REPORTS OF ADVISORY COMMITTEES AND BOARDS**

**L. ITEMS FOR FUTURE AGENDAS**

Council Member Harris would like to pass a resolution in the near future to support the Chamber of Commerce.

Council Member Clayton would like a workshop in the future to discuss the way public hearings are conducted. He would like to see those who wish to speak on an item be able to do so without asking for those for an issue and then those against an issue, because it appears to give those for an issue an unfair advantage.

**M. EXECUTIVE SESSION**

1. Pursuant to §551.072 of the Open Meetings Act. *Tex. Gov't Code*, The City Council will meet in Executive Session to discuss or deliberate the purchase, exchange, lease or value of real property.

1. Pursuant to §551.087 of the Open Meetings Act. *Tex Gov't Code*, The City Council will meet in Executive Session to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.

**N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

The Council reconvened at 9:26 p.m. to vote on item I-9 which was discussed in Executive Session.

Council Member Gatewood made a motion to approve agenda item I-9. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

**O. ADJOURNMENT**

There being no further business, Mayor O'Dwyer stated the meeting adjourned at 9:31 p.m.

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Roger P. O'Dwyer, Mayor

ATTEST:

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Jane Lees, City Secretary